

R 020800Z SEP 09
FM AMCONSUL ST PETERSBURG
TO SECSTATE WASHDC 2832
INFO AMEMBASSY MOSCOW
AMCONSUL ST PETERSBURG
AMCONSUL VLADIVOSTOK
AMCONSUL YEKATERINBURG

UNCLAS ST PETERSBURG 000115

E.O. 12958: N/A

TAGS: [RS](#) [PGOV](#)

SUBJECT: CONSTITUTIONAL COURT CHIEF JUSTICE ZORKIN: INDEPENDENT
JUDICIARY KEY TO RUSSIA'S DEVELOPMENT

Sensitive but Unclassified. Not for Internet Distribution.

¶1. (SBU) Summary. In a cordial and surprisingly open conversation with Ambassador and Consul General August 27, Valery Zorkin, Chairman of the Russian Constitutional Court, underscored the importance of strengthening judicial independence and the rule of law in Russia, welcomed the possibility of judicial cooperation with the U.S., seemed resigned to the new system for selecting the Court's Chairman, and mused on the Constitutional Court's "exile" to St. Petersburg. End Summary.

¶2. (SBU) Zorkin pointed with some pride to the progress achieved since 1991 in establishing the Constitutional Court and strengthening its independence, noting that the fact that Russia has a functioning Constitutional Court only 19 years after the fall of Communism is an achievement in itself. He cited then-President Yeltsin's actions in 1993 as the sole instance of executive interference in the Constitutional Court's work since its inception. He quickly added that more remains to be done to increase judicial independence throughout Russia's court system, but felt the country was moving in the right direction toward greater respect for rule of law.

¶3. (SBU) To that end, Zorkin welcomed cooperation with American counterparts, including the U.S. Supreme Court, to help develop the Russian court system. He said that his court already works closely with several international organizations and that he is a member of the Conference of European Constitutional Courts, a forum he considers useful for exchanging opinions and ideas. The Russian Constitutional Court has a department dedicated to studying the practices of other, mostly European, court systems to help inform how the Russian court operates and increase its efficiency. The Russian Constitutional Court also organizes international conferences on the rule of law and works with the U.S. Bar Association. Internships in the U.S. for Russian judges would be particularly useful and welcome, he added, to provide exposure to and develop knowledge of the U.S. system of jurisprudence. Ambassador Beyrle cited the many years of U.S. support for Russian efforts to strengthen the judiciary, including USAID and DOJ programs. He briefly described the new U.S.-Russia Foundation and its goals; Zorkin reacted favorably, especially when told that former Ambassador Collins, whom he said he holds in high regard, co-chaired the USRF Board. Zorkin welcomed Ambassador Beyrle's offer to consult with USAID and USRF and follow up with a letter detailing specific programs that might be helpful to the Constitutional Court.

¶4. (SBU) Zorkin said that the Constitutional Court receives about 18,000 complaints per year, and the number of complaints is growing. His court accepts and rules on 300-350 cases involving Constitutional issues. He noted that the number of Russian complaints to the European Court of Justice also has grown, with Russian cases constituting 28,000 of the total 100,000 cases received in Strasbourg. He welcomes criticism, he said, and willingly admitted that his court sometimes makes mistakes, but added that not a single decision of his Court has been appealed to Strasbourg. Zorkin said that the Russian constitution is based on international norms, and that in many rulings his Court applies not only accepted international standards but also the legal precedents that have already been set in other countries. Social issues constitute a majority of

the cases the Russian Constitutional Court reviews. Those issues put the Court in a difficult position, as it must balance the limits of what the government can do against the ideal of social justice. Zorkin says his Court often rules in favor of the people against the government, which makes for some animosity between his Court and the Ministry of Finance. But, Zorkin said with a smile, his Court's budget is protected and the Ministry of Finance cannot reduce it.

15. (SBU) Speaking more broadly, Zorkin said he did not know how the Russian legal system would develop, as the fight against separatism and corruption could lead either to the strengthening of the rule of law or towards general lawlessness. Trailing off at the end of his thought, he speculated that roughly 15% of the Russian population has "conservative" views, another 15% - 20% solidly have "democratic" views, and the remainder is somewhere in-between. Zorkin believes the future of the Russian court system depends on many factors, including international cooperation

16. (SBU) In responding to the Ambassador's question, Zorkin put the best face possible on the new process of selecting the Chairman of the Constitutional Court. No longer will the justices choose the Chairman from among their number. Zorkin said that the new system, under which the Federation Council must approve the President's nominee, would encourage a greater separation of power. Zorkin said that the new process will be collaborative, since the nomination will be subject to review by the Federation Council. He pointed out how the Federation Council has the authority, and exercised it under Yeltsin, to reject nominees recommended by the President. What is ultimately important, he concluded, is the spirit of the court, not the specific procedures by which it is constituted.

17. (SBU) On the Court's move from Moscow to St. Petersburg (note: which he initially opposed publicly), Zorkin commented that the move should not be seen as "exile" from the country's center of power. He emphasized that the move had been President Putin's personal initiative, and that initially the plan called for all three of the highest courts in Russia (the Constitutional Court, the Supreme Court and the Arbitration Court) to move to St. Petersburg. He said that the move of the other two courts had been postponed due to the global economic crisis, and if the crisis had begun earlier, the Constitutional Court would likely still be in Moscow as well. He noted that many of his fellow justices on the Constitutional Court were very unhappy with the move, but largely had adjusted to their new city and setting (note: the Constitutional Court occupies, with the Yeltsin Library, the 19th century neoclassical Senate and Synod building).

18. (SBU) Nonetheless, Zorkin said he was pleased to be in St. Petersburg and felt that separation from the hurly-burly of Moscow provided a quieter atmosphere, which facilitated the court's deliberations. As part of the move to St. Petersburg, the Court also had moved its records and work into the electronic age. Zorkin proudly explained that this step had made the Constitutional Court the most transparent of all Russian courts and greatly reduced its paperwork. Zorkin said that the continuing relevance of his court is illustrated by the fact that several key government agencies and bodies have sent representatives who sit as observers during the Court's sessions. Already, there are representatives of the President's office, the Federation Council, and the Prime Minister's office. The Prosecutor General and the Human Rights Ombudsman also want to have representatives included in the near future. Separately, a Court staffer explained that the general public can request admittance to the Court's sessions. The staffer also explained that journalists can monitor the proceedings from a closed-circuit video system in the ante rooms, although journalists are not admitted to the Court's chambers during hearings.

19. (SBU) Comment: Zorkin was surprisingly candid in his assessment of the progress made and continuing shortcomings of the Russian judicial system. His interest in increasing judicial cooperation with the U.S. and with his counterparts was clearly genuine. The Ambassador will follow up with a letter as

described in para 3 after consulting with USAID, DOJ and the
USRF. End comment.

GWALTNEY